EXHIBIT D

STATE OF NEW YORK
COUNTY OF NASSAU

----------x

CARLA KARLEN,

Plaintiff,

-against-

ALEXANDRE DE MOURA AND
NEW YORK SPINE INSTITUTE,

Defendants.

----------x

Index No. 000342/2021

RESPONSE TO DEMAND FOR
A BILL OF PARTICULARS

Plaintiff Carla Karlen, in response to the Demand for a Bill of Particulars of Defendants Alexandre De Moura, M.D. d/b/a New York Spine Institute (Defendants) as follows:

Question 1

Plaintiff resided at 10 Pheasant Lane, Westport, CT 068880 and 3311 Giles Place, Bronx, NY 10643 at the time that the action was commenced and at the time that the negligence occurred. The remaining questions are not applicable.

Question 2

Plaintiff lacks the medical knowledge with which to base an answer.

Question 3

Plaintiff lacks the medical knowledge with which to base an answer.

Question 4

Plaintiff lacks the medical knowledge with which to base an answer.

Question 5

Plaintiff does not have the medical knowledge or expertise sufficient to identify contraindicated surgical procedures. During both hospital intake and initial consult with Defendant, Plaintiff stated she could not take opioids. Defendants did prescribe opioid narcotics to Plaintiff. Defendant insisted that Plaintiff take opioid narcotics after the surgery.

Question 6

Defendant performed a spinal fusion surgery to fuse the c4/c5 vertebrae. Plaintiff does not have the medical knowledge and expertise to answer the balance of the question.

Question 7

Defendants allowed non physicians to participate in the surgical procedure upon Plaintiff. Plaintiff did not close the neck incision made upon Plaintiff in a medically acceptable manner.

Question 8

Defendants failed to provide informed consent the effects of:

a. removing a portion of the disk, and not the entire disk;

b. improper placement of a metal plate and screws;

c. substandard plates, screws and other medical devices used to achieve spinal fusion;

d. success rate for spinal fusion surgery;

e. failure of spinal fusion surgery;

f. negative impact upon the spine arising from spinal fusion surgery.

Regarding other questions in Question 8, Plaintiff does not have the medical knowledge or expertise to answer these questions with adequacy.

Question 9

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Dr. Buschmann
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Address Unknown

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Dr. Jung Kim
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Dr. Shashishekha Palekar
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Dr. Charna (Last Name Unknown)
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24 Saw Mill River Road
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Dr. Paul Cagle
Mount Sinai West
425 West 59 Street
NewYork, NY 10019

Question 10

Mount Sinai West

St. Francis

Temple University Hospital

Weill Cornell

Weill Cornell Radiology

NYU Langone

Question 11

Defendants' negligence occurred on July 27, 2017 and for weeks thereafter.

Question 12

Defendants were negligent in the following manner:

a. Failed to remove the entire disk, and attempted to fuse the c4 and c5 vertebrae with a portion of the disk still in place;

b. Failed to properly set the c4 and c5 vertebrae to be adjoined and fused;

c. Failed to properly choose plates, screws and other medical devices used in the spinal fusion;

d. Failed to make incision at the proper height for a c4/c5 fusion;

e. Failed to close the incision in a medically acceptable manner;

f. Failed to close the incision using plastic surgery techniques as promised and required for a person who suffers from keloids;

g. Failed to inform Plaintiff of the possibility of making an incision at the rear portion of the neck in performing the c4/c5 fusion;

h. Failed to explain or inform at all the need to remove bone marrow from Plaintiff's hip until immediately before Plaintiff was wheeled into surgery;

i. Failed to properly extract bone marrow from Plaintiff's hip;

j. Failed to use the bone marrow extracted from Plaintiff's hip;

k. Failed to insure proper removal of marrow from the hip so that Plaintiff's hip was not damaged;

l. Failed to properly affix the plate and screws used in the surgery;

m. Failed to remain at the hospital long enough to check on Plaintiff after she awoke in the recovery room, thereby failing to see the copious amount of bleeding from Plaintiff's open wound.

n. Failed to remain in the medical facility long enough to ask Plaintiff how she felt after surgery.

o. Failed to keep appointments for follow up and examination of Plaintiff after surgery.

Question 13

Defendants' first service was approximately 1 month prior to the surgery. Plaintiff did not see Defendants again. Plaintiff did see Defendants' employees on or about October, 2017.

Question 14

Pain in Plaintiff's neck.

Question 15

Acute and unrelenting pain in neck, back, shoulder, legs, hip, side and front. Plaintiff has developed acute tinnitus and substantial balance, vertigo and other vestibular issue as well.

Question 16

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Question 17

Not Applicable

Question 18

Cannot Determine At This Time

Question 19

a. Plaintiff was confined to her home for 3 years.

b. Plaintiff was confined to her bed for 4 months.

Quesotion 20

Not Applicable

Question 21

Not Applicable

Question 22

The question is too broad and non-specific to answer.

Question 23

Not Applicable as there are no other medical malpractice actions commenced.

Question 24

There was an implied contract between Plaintiff and Defendants wherein Defendants promised ad agreed to utilize their specialized and highly developed medical skills and training to perform the c4/c5 spinal fusion with utmost care and expertise in accordance with medical standards applied to spinal surgeons with similar skill and expertise. There were additional written agreements between Plaintiff and Defendants.

Question 25

This was both oral and not expressed. It was also inferred in the writings between Plaintiff and Defendants.

Question 26

Plaintiff declines to set forth her social security number for privacy and safety reasons.

Question 27

Not speaking with Plaintiff after fusion surgery; Defendants failed to make themselves available for examination after surgery; Prescribing and insisting that Plaintiff ingest opioid medication for pain after Plaintiff specifically stated to Defendant that she did not wish to use opioid medicines.

Question 28

Statements made to fellow physicians in the office that were repeated to Plaintiff and others.

Dated: April 8, 2022

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